

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Petition of USCOC of Virginia)	
d/b/a U.S. Cellular)	
for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Virginia)	

COMMENTS OF THE NTELOS TELEPHONE COMPANIES

USCOC of Virginia RSA # 3, Inc., USCOC of Virginia RSA # 2, Inc., Virginia RSA #4, Inc., Virginia RSA #7, Inc., Ohio State Cellular Telephone Company, Inc., and Charlottesville Cellular Partnership (collectively, “U.S. Cellular”) seeks designation as an Eligible Telecommunications Carrier (“ETC”) for the purpose of receiving universal service support in Virginia pursuant to Section 214 (e) of the Telecommunications Act of 1996. U.S. Cellular’s Virginia petition is one of several ETC petitions filed at the Federal Communications Commission (“FCC”) recently by wireless carriers. Virginia Cellular, Alltel, Nextel, Sprint PCS and Highland Cellular have also filed petitions seeking ETC designation in Virginia.

NTELOS Inc. is the parent company of two rural Incumbent Local Exchange Carriers operating in Virginia, NTELOS Telephone Inc. (formerly CFW Telephone Inc.) and Roanoke and Botetourt Telephone Company (collectively the “NTELOS Telephone

Companies”). NTELOS also has extensive wireless operations in Virginia and West Virginia, competing with U.S. Cellular and other wireless carriers.

The NTELOS Telephone Companies filed Comments in response to ETC petitions filed by Virginia Cellular and Nextel. These petitions raised precisely the same policy issues as does the U.S. Cellular petition.

I. The Federal Universal Service Mechanisms are in Danger of Failing in their Core Mission of Ensuring Affordable Service in Rural Areas

The core purpose of universal service support has always been and continues to be to help telephone companies in high-cost areas to make the investments in infrastructure and to assure that rural customers have reasonably-priced, quality telecommunications services. But the 1996 Act and access reform have caused profound changes in the traditional universal service mechanisms.¹ There is grave concern among rural ILECs that these support mechanisms -- on which they absolutely depend -- are in jeopardy. The rural companies are carriers of last resort with long-standing commitments to providing telecommunications services in their communities. Indeed, both of the NTELOS Telephone Companies have been providing quality telephone service for more than a century. Without universal service support, the ability of rural ILECs to continue to provide state-of-the-art services at reasonable prices is at risk.

For now, the universal service funding that U.S. Cellular seeks would be in addition to the support received by the NTELOS Telephone Companies - except in the circumstance where a customer discontinues wireline service altogether and relies solely

¹ For example, the Interstate Common Line Support (ICLS) mechanism created as part of access reform has made rural companies even more dependent on universal service funding.

on wireless service from U.S. Cellular. But how much longer can that situation continue? There are six wireless carriers serving Waynesboro and Daleville, which are the main wire centers of the NTELOS Telephone Companies. Each of those wireless carriers could make the same assertions that U.S. Cellular makes in its petition. What are the long-term implications for the size of the fund if those six carriers (or more) were to receive funding? The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) has estimated that the high cost fund alone would increase at least \$2 billion if all wireless carriers nationwide were granted ETC status.² Given the magnitude of that increase, one must recognize that drastic cuts in funding are a distinct possibility. And while such cuts may cause wireless ETCs to re-examine some aspects of their business plans, decreases in funding would be disastrous for rural ILECs. The Commission must resolve fundamental questions regarding the future of the Universal Service Fund prior to granting ETC authorizations in the service areas of rural ILECs.

II. The Joint Board Recommended Decision

On February 27, 2004 the Federal-State Joint Board on Universal Service issued its Recommended Decision in this docket (*Recommended Decision*). Like NTELOS and others, the Joint Board is conscious of the rapidly increasing size of the Universal Service Fund, a trend greatly influenced by wireless companies seeking ETC designation in rural, high cost areas.

² See Stuart Polikoff, Universal Service in Rural America: A Congressional Mandate at Risk at 21.

The Joint Board, in searching for a way to restrict the size of the USF, recommends “that the Commission limit the scope of high-cost support to a single connection that provides access to the public telephone network.” *Recommended Decision*, ¶ 3. The Joint Board clearly recognizes the negative impact that this change is likely to have on rural ILECs and urges the FCC to “take steps to avoid or mitigate reductions in the amount of high-cost support flowing to rural areas as a result of implementing a primary-line restriction.” *Id.*, ¶ 72.

The Joint Board discusses various ways to “hold harmless” rural carriers from these recommended changes (*Recommended Decision*, ¶¶ 72-80). With the limited information available to them, the NTELOS Telephone Companies have done their best to analyze the “hold harmless” mechanisms. We are not convinced that any of these mechanisms are workable. In the near term, the Joint Board’s recommendations greatly increase the uncertainty about the effect of certifying multiple ETCs in a study area served by a rural ILEC.

III. It Is Unwise to Designate Additional ETCs in Rural Study Areas

Rural ILECs serve areas with low population densities where the cost of providing residential telephone service is above the tariffed rates for that service. Universal Service support helps assure customers that they will have reasonably priced telecommunications services on par with their urban counterparts. The rates that U.S. Cellular and other wireless carriers charge for their services are not similarly regulated.

Rural ILECs make substantial investments in their telecommunications networks and they have been required to demonstrate the costs they incur to provide service. U.S.

Cellular and other wireless carriers have no similar responsibility to demonstrate their actual cost of providing service.

Rural ILECs have carrier-of-last-resort responsibilities. In contrast, as the FCC itself has stated, a wireless carrier “always has the option of relinquishing its ETC designation and its corresponding benefits and obligations to the extent that it is concerned about its long-term ability to provide supported services in the affected areas.” *Virginia Cellular Order*, ¶ 12.

USF funding is not the only means rural ILECs use to be able to offer affordable service. Another important source of such support, access charges, may also be significantly decreased.³ As the National Association of Regulatory Utility Commissioners stated in its May 5, 2004 Press Release “[a]spects of the current intercarrier compensation system are rapidly becoming unsustainable”. Press accounts of on-going industry negotiations suggest that the elimination of interstate - and perhaps intrastate - access charges is a potential outcome in the *Intercarrier Compensation Proceeding*.⁴ Until both the Universal Service and the Access Charge pictures for rural ILECs are clearer, it is unwise to designate additional ETCs in study areas served by rural ILECs.

IV. U.S. Cellular Has Not Satisfied Its Burden of Proof

The NTELOS Telephone Companies are skeptical about whether U.S. Cellular actually has wireless coverage in all the areas it alleges. U.S. Cellular, as the petitioner, bears the burden of proving its coverage area and of showing that it provides all of the

³ *Notice of Proposed Rulemaking*, In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92 (April 27, 2001) (*Intercarrier Compensation Proceeding*)

⁴ See *Telecommunications Reports*, Vol. 70, No. 7 (April 1, 2004) at 3-4.

requisite features of a universal service offering. U.S. Cellular has made only conclusory statements in this regard, unsupported by facts. The FCC should not rely on the unsupported assertions in the petition, particularly in connection with service areas of rural telephone companies. In those areas, U.S. Cellular bears a higher burden under the statute to be certified to receive universal service funding.

V. Conclusion

Ensuring that rural customers have access to affordable, quality telecommunications service is a critical mandate of the Federal Communications Act. Universal Service support mechanisms must remain sufficient to that task without unduly burdening those customers who ultimately contribute to the funding.

The core purpose of universal service support has always been and continues to be to help telephone companies in high-cost areas to make the investments in infrastructure and to assure that rural customers have affordable, quality telecommunications services. The *Virginia Cellular Order* and the *Recommended Decision* are not final rulemaking decisions and should not be the basis for certifying a multitude of ETCs in rural ILEC serving areas.

Until the FCC has acted on the *Joint Board Recommendation*, the NTELOS Telephone Companies recommend the Commission hold in abeyance only that portion of the U.S. Cellular petition that seeks certification in rural ILEC study areas.

Respectfully submitted,

NTELOS Telephone Companies

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CERTIFICATE OF SERVICE

I, Mary McDermott, hereby certify that I caused copies of the foregoing Comments of the

NTELOS Telephone Companies on U.S. Cellular's Petition to be served by First Class

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